

## **REMARKS**

Reconsideration of the application is respectfully requested.

### **I. STATUS OF THE CLAIMS**

Claims 1 - 13 are pending in the application. Claims 4 and 5 are canceled without prejudice or disclaimer, and claims 1, 2, 3, 6 and 12 are amended. No new matter is introduced.

### **II. REJECTIONS UNDER 35 U.S.C. § 112**

Claims 3 – 5 and 12 are rejected under the second paragraph of 35 U.S.C. § 112 as being indefinite. Specifically, the Examiner finds that claims 3, 4 and 12 include several limitations that lack sufficient antecedent basis.

As claims 4 and 5 are canceled without prejudice or disclaimer, the rejections as to claims 4 and 5 are moot. Applicants amend claims 3 to eliminate the term lacking sufficient antecedent basis, and amend claim 12 to correct a referenced claim term (the corrected term finds antecedent basis in claim 1, from which it indirectly depends).

Therefore, Applicants respectfully request that the rejections of claims 3 and 12 under the first paragraph of 35 U.S.C. § 112 be withdrawn.

### **III. REJECTIONS UNDER 35 U.S.C. §§ 102, 103**

Claims 1 – 5 and 10 – 12 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,535,840 to Coyle et al. (“Coyle”). Claims 6, 7 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Coyle in view of U.S. Patent No. 3,814,277 to La Croce et al (“La Croce”). Claims 8 and 9 rejected under 35 U.S.C. § 103(a) as being unpatentable over Coyle in view of La Croce and U.S. Patent No. 5,842,593 to von Holdt. (“von Holdt”). As claims 4 and 5 are canceled without prejudice or disclaimer, the rejections as to claims 4 and 5 are moot. Applicants

amend claim 1 to further clarify the nature of their invention, and respectfully traverse the rejections of claims 1 – 3 and 6 – 13 under 35 U.S.C. §§ 102(b), 103(a).

In amended independent claim 1, Applicants claim:

1. A can for bulk products, comprising:

a tubular body in metallic sheet, having at least one peripheral lateral wall and one annular upper wall presenting an external edge affixed to the peripheral lateral wall, wherein:

an internal face of the annular upper wall turned to the interior of the tubular body presents an internal radial extension portion and an external radial extension portion, and an internal edge defining an opening,

the external edge of the annular upper wall is double seamed to an upper edge of the peripheral lateral wall of the tubular body and a lid is configured to be removably fitted and retained in the opening of the can, in order to close it,

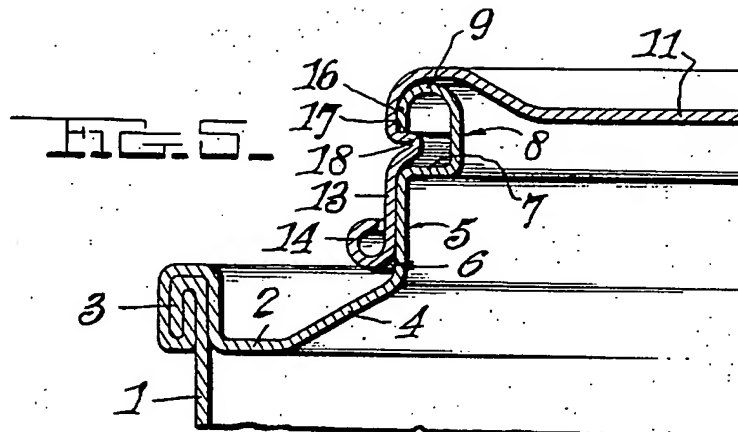
wherein any point of said internal face of the upper annular wall is disposed at a height, measured in the interior of the tubular body, at a minimum equal to the height of another point of said internal face disposed in a radially external manner, aligned and adjacent in relation to said point,

wherein the internal radial extension portion is adjacent to the opening and disposed in a first plane orthogonal to the axis of the tubular body,

wherein the external radial extension portion is adjacent to the peripheral lateral wall of the tubular body and is disposed in a second plane orthogonal to the axis of the tubular body, and

wherein the internal radial extension portion and the external radial extension portion of the internal face are interconnected via a portion which takes the form of a kind of slope which continuously is inclined upwardly and toward the opening of the tubular body.

Coyle discloses a container top and closure, comprising a body portion 1 having a lateral wall affixed at a seam 3 to a ring top 2, and a lid 11 removably fitted at an opening of the container. The points of the annular upper wall increase along an inclined portion 4 above a minimum height defined by a portion of the ring top 2 adjacent to the seam 3 (see, e.g., FIG. 5 of Coyle below):



However, and in sharp contrast to Applicants' amended independent claim 1, the inclined portion 4 does not interconnect an internal radial extension portion and an external radial extension portion of the ring top 2 that are each disposed in a plane orthogonal to the axis of the container. Rather, with reference to FIG. 5 of Coyle above, it can be seen that the cylindrical portion 5 of Coyle (which, like Applicants' claimed internal radial extension portion is connected to the inclined portion and is adjacent to the opening of the container) does not define a surface which is disposed in a plane orthogonal to the axis of the container. Rather, the cylindrical portion 5 defines a surface which radially surrounds the axis of the container, and thereby defines tangent planes that are parallel to the axis of the container. This deficiency in Coyle is not overcome by any of the other cited references.

Therefore, for at least the above-argued reasons, Applicants submit that amended independent claim 1 is not anticipated by Coyle and stands in condition for allowance. As each of claims 2, 3 and 6 -13 depends either directly or indirectly from allowable independent claim 1, Applicants submit that dependent claims 2, 3 and 6 – 13 are also allowable for at least this reason. In addition, Applicants submit that dependent claim 12 is allowable on additional grounds.

In amended dependent claim 12, Applicants claim:

**12.** The can as set forth in claim 2, wherein the annular upper wall has its height limited by a fourth plane containing the upper edge of the peripheral lateral wall of the tubular body.

In sharp contrast to the can of claim 12, the annular upper wall of Coyle is not substantially flat, such that the annular upper wall “has its height limited by a fourth plane containing the upper edge of the peripheral lateral wall of the tubular body” (see, e.g., page 9, lines 26 – 34 of Applicants’ specification). Rather the crest of the inner bead 9 of the ring top 2 of Coyle extends well above the crest of the seam 3 of Coyle that forms an upper edge of the lateral wall of the body portion 1. This deficiency in Coyle is not overcome by any of the other cited references.

Therefore, Applicants respectfully request that the rejections of claims 1 – 13 under 35 U.S.C. §§ 102(b), 103(a) be withdrawn.

**CONCLUSION**

In view of the foregoing, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

The Examiner is respectfully requested to contact the undersigned at the telephone number indicated below if the Examiner believes any issue can be resolved through either a Supplemental Response or an Examiner's Amendment.

It is believed that no fee is required for these submissions. Should the U.S. Patent and Trademark Office determine that additional fees are owed or that any refund is owed for this application, the Commissioner is hereby authorized and requested to charge the required fee(s) and/or credit the refund(s) owed to our Deposit Account No. 04-0100.

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Respectfully submitted,

By 

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